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May 29, 2013

**VIA EMAIL (Schofield\_NYSDChambers@nysd.uscourts.gov)**

Honorable Lorna G. Schofield

U.S. District Judge

United States District Court

Southern District of New York

500 Pearl Street

New York, NY 10007

Re: Fenner, et al. v. News Corporation, et al.  
09 CV 9832 (LGS)

Dear Judge Schofield:

We represent Plaintiffs in the above-referenced matter. We write in reference to Defendants' May 29, 2013 request for permission to submit substantial additional evidence attached to their reply briefs in support of their motions for summary judgment. Plaintiffs are unable to consent to these requests and must oppose them because of the indeterminate nature of the material to be introduced, as well as the volume of that material. Defendants are requesting leave to introduce up to 50 additional pages of exhibits, as well as two additional affidavits and two new declarations. These materials are in addition to those Defendants and Plaintiffs were permitted to introduce in connection with the motions and oppositions, which had matching limits on exhibits and affidavits, thereby allowing Defendants a significant advantage in the amount of factual material they could file in support of their motions. Defendants had ample opportunity to excerpt the record in preparing their motions, and Plaintiffs may need to apply for permission to file a sur-replies in the event Defendants' additional materials introduce new factual points or arguments. The Court already has hundreds of pages of materials submitted by the parties on the two summary judgment motions pending in this case, and can readily determine whether the facts and issues raised by the parties are supported by those materials. Indeed, to the extent Defendants point out or assert a lack of clarity or inconsistencies in the record, this further illustrates the inappropriate nature of summary judgment in this matter.

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We thank Your Honor for your consideration in this matter.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'L. M. Pearson', with a long horizontal flourish extending to the left.

Lawrence M. Pearson

cc: Mark W. Lerner  
Garrett Kennedy